IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 675 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge?

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GITABEN P THAKKAR - Petitioner(s)
Versus
SHANKARSINH WAGHELA & 4 - Respondent(s)

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Appearance :

MR AD OZA for Petitioner(s) : 1,
NOTICE SERVED for Respondent(s) : 1,
M/S PATEL ADVOCATES for Respondent(s) : 2,
MR DIPEN DESAI, ASST. GOVERNMENT PLEADER for Respondent(s) : 3,
MR HS MUNSHAW for Respondent(s) : 4,
MS NAYANA V PANCHAL for Respondent(s) : 5,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 25/04/2007

ORAL JUDGMENT

1. By way of this petition, under Article 226 of the Constitution of India, the petitioner has

prayed for an appropriate order/writ and/or direction for quashing and setting aside the order dated 09.01.1997 by which respondent No.5 was transferred from District- Banaskantha to District – Mehsana.

2. It appears from the record that respondent No.5 was serving at Santalpur in District Banaskantha and pursuant to some recommendations of the then Chief Minister, State of Gujarat, who was also holding portfolio of Education Department, he came to be transferred from Santalpur, District Banaskantha to Sami, District – Mehsana. It is the contention on behalf of the petitioner that the order dated 09.01.1997 of transfer is nothing but favourism to respondent No.5 and against all norms of inter-district transfer.

3. Shri Dipen Desai, learned Assistant Government Pleader has submitted that Office of Director, Primary Education and/or even Education Department, State Government are not in a position to trace out relevant file by which there was recommendations by the then Chief Minister to transfer respondent No.5 from Santalpur, District – Banaskantha to District – Mehsana.

4. Considering the pleadings in the petition, orders, anexuers and reply, this Court *prima – facie* is not satisfied with regard to transfer of respondent No.5 from Santalpur, District – Banaskantha to Sami, District – Mehsana. When the

matter is heard today, it is reported that even the place where respondent No.5 was transferred is in Patan District and the place where respondent No.5 was serving i.e. at Santalpur is also part of Patan District. Even if the impugned order is quashed and set aside, and respondent No.5 is directed to be sent back to Santalpur, then in that case also, respondent No.5 would be in District – Patan. Under the circumstances, though as stated above, this Court is not satisfied on merits but in view of subsequent development, present Special Civil Application has become academic and/or no fruitful purpose would be served in quashing and setting aside the impugned order. Under the circumstances, present Special Civil Application is disposed of as having become infructuous with above observations and in view of subsequent development. Rule discharged. No costs.

[M.R.Shah, J.]

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